

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

EUGENE DESHANE MITCHELL,
SHAYLEEN MEUCHELL, *on their
own behalf and as next friend of B.M.*,

Plaintiffs,

v.

FIRST CALL BAIL AND SURETY,
INC.; ALLEGHENY CASUALTY
COMPANY; INTERNATIONAL FI-
DELITY INSURANCE COMPANY;
THE MONTANA CIVIL ASSIS-
TANCE GROUP; MICHAEL
RATZBURG; VAN NESS BAKER;
and JASON HAACK,

Defendants.

Case No. 9:19-cv-00067-DLC

**RULE 26(f) CONFERENCE RE-
PORT & JOINT DISCOVERY
PLAN**

1. Counsel for Plaintiffs met and conferred with counsel for defendants First Call Bail & Surety, Inc., Allegheny Casualty Insurance Company, International Fidelity Insurance Company, and Michael Ratzberg (“Appearing Defendants”) on Tuesday, October 29, 2019. In this report, the term “parties” refers to Plaintiffs and the Appearing Defendants. Defendants The Montana Civil Assistance Group (MCAG) and Van Ness Baker have been personally served but have not appeared in this action. Plaintiffs sent by FedEx a copy of the Court’s Preliminary Pretrial Conference Order (Doc. 60) to MCAG and Mr. Baker. Defendant Jason Haack was served by the Clerk of Court but has not appeared. Plaintiffs mailed a copy of the Court’s Preliminary Pretrial Conference Order to Mr. Haack at his last known address in Columbia.

2. **Agreed Proposed Schedule**

Event	Deadline
Rule 26 Initial Disclosures	November 14, 2019
Preliminary Pretrial Conference	November 21, 2019
Disclosure of all liability experts and Plaintiffs’ damages experts	January 22, 2021
Disclosure of Defendants’ damages experts (30 days after Plaintiffs’ disclosure)	February 22, 2021
Discovery cut-off (60 days after Defendants’ damages expert disclosure)	April 23, 2021

3. Discovery Plan under Rule 26(f)(3)

A. Initial Disclosures

The parties propose no changes to the initial disclosure requirements under Rule 26. Initial disclosures will be made on November 14, 2019.

B. Subjects, timing, and potential phasing of discovery

The subjects on which discovery may be needed include: (1) the relationship between and among all Defendants; (2) the identities and experiences of people who had bail contracts with any defendant and who were arrested by recovery agents, though the permissible scope of that inquiry is uncertain; (3) communications between and among Defendants regarding Plaintiffs; (4) Defendants' policies and procedures relating to use of bail contracts and recovery agents, though the permissible scope of that inquiry is uncertain; (5) the role of each Defendant in the process of issuing a bail bond and arresting a person subject to a bail contract, though the permissible scope of that inquiry is uncertain; (6) the practice of bounty hunting in general, though the permissible scope of that inquiry is uncertain; (7) all facts relating to the Montana Civil Assistance Recovery Group's arrest of Plaintiff Mitchell on April 23, 2017; (8) the nature and extent of Plaintiffs' injuries and any damages; (9) the facts and circumstances underlying Plaintiff's failure to appear on bond in this and other matters; (10) Plaintiffs' prior experience with the courts and familiarity with the commercial bail bond industry; (11) Plaintiffs' communica-

tions and interactions with other bondsmen, parties, and third parties related to this and other criminal and civil suits; and (12) communications between and among Plaintiffs regarding Defendants and the facts and allegations in this suit.

The parties do not think discovery should be conducted in phases.

C. Electronically stored information.

The parties understand their preservation obligations. Plaintiffs intend to send preservation letters to all Defendants, including those who have not appeared.

The parties agree to make all reasonable efforts to produce data files in Excel-compatible format. The parties agree to make all reasonable efforts to produce any documents produced in PDF format in a manner that preserves logical page breaks.

D. Privilege issues.

The parties have identified the following issues relating to privilege that may arise in this matter:

- Spousal privilege between Mr. Mitchell and Ms. Meuchell;
- Potential attorney-client privilege relating to individuals employed by Defendants who may have relevant factual information but have also served as counsel or in another capacity related to preparation for or in anticipation of litigation; and

- Issues relating to the emotional distress injuries claimed on behalf of Plaintiffs, including their minor daughter, and whether one or more independent exams may be warranted.

The parties do not have any current disputes regarding these matters.

E. Proposed changes to discovery limitations.

The parties have agreed that each side should be permitted to take up to 15 depositions under Rule 30(a)(2) without leave of Court and consistent with Fed. R. Civ. P. 30 and the Advisory Committee's notes thereto and request that the Court so order.

F. Other discovery related orders.

The parties have agreed to a stipulated protective agreement that includes a clawback provision under Federal Rule of Evidence 502. In response to the Court's order regarding the proposed protective order (Doc. 63), the parties believe their stipulated agreement is sufficient to protect their legal interests and do not plan to renew their request for entry of an order adopting their agreement.

4. **Additional topics under Rule 26(f)(2)**

The parties have exchanged initial settlement offers but have reached no agreement to resolve the case. Should it become appropriate to do so, the parties will engage in private mediation.

Dated: November 14, 2019.

Respectfully submitted

TERRELL MARSHALL
LAW GROUP, PLLC

CROWLEY FLECK PLLP

By: /s/ Toby J. Marshall, Pro Hac Vice
Toby J. Marshall (lead counsel), *PHV*
Blythe H. Chandler, *Pro Hac Vice*
936 North 34th Street, Suite 300
Seattle, Washington, 98103
Telephone: (206) 816-6603
Email: tmarshall@terrellmarshall.com
Email: bchandler@terrellmarshall.com

By: /s/ Matthew A. Baldassin
Matthew A. Baldassin
Jeffrey R. Kuchel
P.O. Box 7099
Missoula, Montana 59807-7099
Telephone: (406) 523-3600
Facsimile: (406) 523-3636
Email: mbaldassin@crowleyfleck.com
Email: jkuchel@crowleyfleck.com

AMERICAN CIVIL LIBERTIES
UNION OF MONTANA

By: /s/ Alex Rate
Alex Rate
P.O. Box 1968
Missoula, Montana 59806
Telephone: (406) 204-0287
Email: ratea@aclumontana.org

*Attorneys for Defendants Allegheny Casualty
Company, International Fidelity Insurance
Company, First Call Bail and Surety, Inc.,
and Michael Ratzburg*

Andrea Rose Woods, *Pro Hac Vice*
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
Criminal Law Reform Project
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 549-2528
Email: awoods@aclu.org

Bryan Charles Tipp
Sarah M. Lockwood
TIPP COBURN & ASSOCIATES, PC
2200 Brooks Street
P.O. Box 3778
Missoula, Montana 59806-3778
Telephone: (406) 549-5186
Email: bryan@tcsattorneys.com
Email: sarah@tcsattorneys.com
Email: nicole@tcsattorneys.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Toby J. Marshall, hereby certify that on November 14, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Matthew A. Baldassin
Jeffrey R. Kuchel
CROWLEY FLECK PLLP
P.O. Box 7099
Missoula, Montana 59807-7099
Telephone: (406) 523-3600
Facsimile: (406) 523-3636
Email: mbaldassin@crowleyfleck.com
Email: jkuchel@crowleyfleck.com

*Attorneys for Defendants Allegheny Casualty Company,
International Fidelity Insurance Company, First Call Bail and
Surety, Inc., and Michael Ratzburg*

No appearances have been entered in this case on behalf of
Defendants Baker, Haack, or MCAG.

Dated: November 14, 2019.

TERRELL MARSHALL LAW
GROUP PLLC

By: /s/ Toby J. Marshall, Pro hac Vice
Toby J. Marshall, *Admitted Pro Hac Vice*
936 North 34th Street, Suite 300
Seattle, Washington, 98103
Telephone: (206) 816-6603
Email: tmarshall@terrellmarshall.com

Attorneys for Plaintiffs